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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of
MACHIYA, et al.

Appln. No.: 10/018,464

Filed: April 24, 2002

Title: PHTHALAMIDE DERIVATIVES, INTERMEDIATES IN THE
PRODUCTION THEREOF, AND AGRICULTURAL/HORTICULTURAL
INSECTICIDES AND METHOD FOR USING THE SAME

Confirmation No. 1763
Attorney Docket No. 46162

Art Unit: 1624
Examiner: Habte, K.

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August 15, 2003

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated July 17, 2003, reconsideration is respectfully requested.

Specifically, in response to the restriction requirement under 35 USC 121 and 35 USC 372 (this a PCT application which entered the U.S. National Phase), the applicants hereby elect with traverse, Group VII containing claims 1-8 in part drawn to pyridines/quinolines (e.g. Q26-Q28, Q46). Further, in response to the Examiner's request for a tentative election of a single disclosed species (see Office Action, page 3, last line), the applicants tentatively elect the compound No. 27-151 as the single

disclosed species, as disclosed for example at page 70, Table 7 of the present application.

The applicants provide the following reasons in support of their traverse of this election requirement.

The Office Action states that the application claims are restricted to 15 groups, i.e., 15 inventions. The Office Action states that the inventions of Groups I-XV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features because the special technical feature of each Group is different, one from the other, because of the nature of the rings and nature of the heteroatoms in the rings.

In support of the applicants' traverse of the restriction requirement, the Examiner is asked to review the International Search Report (ISR) which issued for this application (copy attached for the convenience of the Examiner). **The ISR shows that no lack of unity of invention was found in this application.**

As stated in MPEP 1844, the ISR must indicate whether the search was restricted or not for, among other reasons, "lack of unity of invention." In the present application, no lack of unit of invention was determined. In the present application the claims are related by formula (I).

The Examiner is asked to review the International Preliminary Examination Report (IPER) which issued for this application (copy attached for the convenience of the Examiner). **The IPER shows that no lack of unity of invention was found in this application.**

As stated in MPEP 1875, the Examiner may when preparing the IPER consider whether the international application complies with the requirement of unity of invention.

Further, 37 CFR 1.488(a) states that:

“Before establishing any written opinion or the international preliminary examination report, the International Preliminary Examining Authority will determine whether the international application complies with the requirement of unity of invention as set forth in 37 CFR 1.475.”

Of paramount importance here, is the fact that the International Preliminary Examining Authority did not find a lack of unity. The Authority did not impose a restriction requirement.

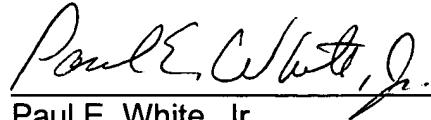
MPEP 1875 points out that in most instances, lack of unity of invention will have been noted and reported upon by the International Searching Authority which will have drawn up the International Search Report. Thus, the unity of invention of the present application has been thoroughly investigated once and then thoroughly investigated again during preparation of 1) the International Search Report and 2) the International Preliminary Examination Report.

In the present application, no lack of unity of invention was determined during either of the two investigations.

Accordingly, the applicants request that no lack of unity of invention be found in the present application and all present claims be considered in this application. The applicants respectfully request that the restriction requirement be withdrawn.

Entry of this Response and favorable consideration of this application are respectfully requested.

Respectfully submitted,



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Sir:

Transmitted herewith is an Response in the above-captioned application. The fee has been calculated as shown below. (*Small entity fees indicated in parentheses.*)

CLAIMS AS AMENDED							
(1)	(2)	(3)	(4)		(5)	(6)	(7)
	Claims Remaining After Amendment		Highest Number Previously Paid For		Extra Claims	Rate	Fee
Total Claims	8	-	20		0	18.00	0
(<i>Small Entity</i>)						(9.00)	
Independent claims	3	-	3		0	84.00	0
(<i>Small Entity</i>)						(42.00)	
Multiple Dependent	0	-	0		0	280.00	0
(<i>Small Entity</i>)						(140.00)	
Extension of Time	One Month		Two Months		Three Months		
Fee	\$110		\$410		\$930		0
(<i>Small Entity</i>)	(\$55)		(\$205)		(\$465)		0
Total							0

The above fees are believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0687 under the above Attorney Docket Number for which purpose this paper is submitted in duplicate. **CUSTOMER NO. 20736**

Respectfully submitted,

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